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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,255	07/19/2000	Catherine Lin-Hendel		1100

7590 05/09/2003

Jean Marc Zimmerman
226 St Paul Street
Westfield, NJ 07090

EXAMINER	
FADOK, MARK A	
ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/619,255	LIN-HENDEL, CATHERINE	
	Examiner	Art Unit	
	Mark A Fadok	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-21 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *Recent changes to USC 102* .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 3,7,9,10,11,12,13,16,17 and 19 are rejected under 35 U.S.C. 102(e) as being Anticipated by Sakaguchi (6,310,627).

Sakaguchi teaches all the features of the instant claims, for instance Sakaguchi discloses a 3D imaging model with motion for displaying preferred articles of clothing. (see at least the abstract , drawings and summary)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2,4-6, 8,14,15,18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakaguchi in view of Fano (6,317,718), in vie of Hashimoto (5,729,699) and further in view of Official Action.

In regards to claims 2 and 6 Sakaguchi teaches a selection process that stores past selections, a merchandise database and a presentation program for displaying models and product, but does not specifically teach 1) a questionnaire database that prompts the user to answer a plurality of questions to specify user preferences with regard to the at least one type of merchandise. Fano teaches using agents to gather information and present appropriate information based on collected data (see at least drawings and summary), but does not explicitly mention the use of a questionnaire, it is old and well known in the art to collect data using questionnaires and could therefore have been used buy Fano if so desired. It is further stated that it would be obvious to a person of ordinary skill in the art to include Sakaguchi the preferences and questionnaire as taught above, because gathering information about an individual

prevents the continued display of items which the customer is not interested in and also allows advertisers and merchandisers to target product that is more likely be purchased by the particular consumer. , 2) a merchandise database having textual and graphical data regarding the at least one type of merchandise, the merchandise database using artificial intelligence. Fano teaches textual data (FIG 20) and artificial intelligence (agents, col 34, lines 14-40). It would be obvious to a person of ordinary skill in the art to include in Sakaguchi the use of textual data and agents, because the use of textual information enhances the message being provided from the seller, and agents perform tasks, such as presenting appropriate information and can act as an online personal sales person by presenting product which is more likely to be purchased by the customer thus saving the customer time and effort. and 3) a layout and schematics program for preparing and displaying a floor plan depicting merchandise selected by the user, wherein the dimensions and other architectural features of the floor plan are provided by the user. It is old and well known in the art to provide simulated architectural background to presentations on the internet. It would be obvious to a person of ordinary skill in the art to include in Sakaguchi an architectural background, because this would add additional realism to the graphical images presented by Sakaguchi.

In regards to claim 4, Sakaguchi does not specifically teach wherein the system provides the user with the names of a plurality of vendors for the merchandise specified by the user. Fano teaches presenting merchandise from a plurality of merchandisers (FIG 27). It would be obvious to a person of ordinary skill in the art to include in

Sakaguchi presenting product from a plurality of vendors because this would expand the usefulness of Sakaguchi's invention by allowing the user to shop multiple merchandiser, some of which may be more in line with the users preferences.

In regards to claim 5 Sakaguchi does not specifically teach wherein after the user selects a vendor, the system asks the user to specify additional information regarding the products of the vendor selected by the user. Specifying additional information such as whether or not the user wishes to purchase the product or collect payment information or select a particular product ect. is old and well known in the art. It would be obvious to a person of ordinary skill in the art to include in Sakaguchi requesting additional information such as a purchase option since this would consummate the sale.

In regards to claim 8, Sakaguchi does not specifically teach wherein the user uses an input device to click on an individual item of merchandise shown on the display device to determine which goods to configure. Using a mouse to move a curser and click on an item button or icon is old and well known in the art and could have been in the invention of Sakaguchi if so desired.

In regards to claim 14, Sakaguchi does not specifically teach wherein the system includes both inclusion and exclusion mechanisms to assist the user in making preference selections. Fano teaches providing information based on preferences, but does not specifically teach inclusion and exclusion of information. It is old and well known in the art that information can be included as well as excluded, which forms the

basis for determining which information to provide to the user and therefore, could have been included in the invention of Sakaguchi/Fano if so desired.

In regards to claim 15, Sakaguchi does not specifically teach wherein the system includes an automated select all features wherein all possible preferences are automatically included unless excluded by the user. Fano teaches using an agent to evaluate preferences and provide information accordingly, based on programmed information. It is considered a design choice to provide all the information to the user since all the information is being evaluated and if the programmed logic were to specify that all the information be present then the program would respond accordingly.

In regards to claim 18, Sakaguchi does not specifically teach wherein a user can purchase an entire ensemble, or any part of the ensemble. Selecting all or some of the presented products such as is found in a catalog is old and well known in the art. It would be obvious to a person of ordinary skill in the art to include in Sakaguchi/Fano selecting only a portion of what is presented, because if the user was forced to purchase something that was unwanted and the user would probably leave the site and try to purchase the product elsewhere.

In regards to claim 20, Sakaguchi does not specifically teach wherein the user can override a predetermined intelligence rule used by the system to make recommendations to the user. Having the ability to override a predetermined rule by turning of the rule is old and well known in the art. It would have been obvious to a person of ordinary skill in the art to include in Sakaguchi/Fano a means for turning off all or a portion of the predetermined rules based on preferences, because a user may want

to buy a specific product that is not shown according to a predetermined rule. If this rule were not manageable then the user would be forced to shop elsewhere to find the product.

In regards to claim 21, Sakaguchi does not specifically teach wherein the predetermined intelligence rules pertain to determining whether two colors match. Hashimoto teaches a display system, which evaluates and coordinates accessories and colors (see at least abstract). It would be obvious to a person of ordinary skill in the art to include in Sakaguchi/Fano the coordinating suggestion as taught by Hashimoto because this would provide an additional feature that user, perhaps color blind or lacking in taste, could use to assure that the clothing being bought matches.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 305-7687 [Official communications; including After Final communications labeled "Box AF"]

(703) 746-7206 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

Mark Fadok

Patent Examiner

Jeffrey A. Smith
Primary Examiner

Recent Statutory Changes to 35 U.S.C. § 102(e)

On November 2, 2002, President Bush signed the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215) (Pub. L. 107-273, 116 Stat. 1758 (2002)), which further amended 35 U.S.C. § 102(e), as revised by the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501 (1999)). The revised provisions in 35 U.S.C. § 102(e) are completely retroactive and effective immediately for all applications being examined or patents being reexamined. Until all of the Office's automated systems are updated to reflect the revised statute, citation to the revised statute in Office actions is provided by this attachment. This attachment also substitutes for any citation of the text of 35 U.S.C. § 102(e), if made, in the attached Office action.

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

> **A person shall be entitled to a patent unless –**
>
> **(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.**

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 prior to the amendment by the AIPA that forms the basis for the rejections under this section made in the attached Office action:

> **A person shall be entitled to a patent unless –**
>
> **(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.**

For more information on revised 35 U.S.C. § 102(e) visit the USPTO website at www.uspto.gov or call the Office of Patent Legal Administration at (703) 305-1622.